

Purpose

On May 3, 2007, when I spoke with Mr. Kevin Martin about SMS network neutrality at the Silicon Valley Microsoft campus following his panel discussion for the Churchill Club he recommended that I file a comment regarding Skype's petition since my SMS neutrality concerns fell under this petition proceeding (RM-11361). I present the following document in support of Skype's petition to have access into the wireless carrier's oligopoly, which is a public mobile service, in a manner consistent with the Carterphone ruling for both voice and SMS services.

Background

Companies attempting to send and receive mobile text messages (also referred to as simple messages service [SMS]) to and from their customers currently face tremendous administrative burdens and are censored/blocked by the wireless carriers. The details of these challenges are addressed on pages 25–27 of Tim Wu's document entitled *Wireless Net Neutrality* found at:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=962027

Discussion

The current problem is that US wireless carriers, who are service providers, also monitor and regulate SMS content that is sent over their networks.

This practice is analogous to a phone company monitoring my phone call to a stockbroker, when I sell stock at a profit, and then charging me more money since that phone call was worth more. Obviously, this type of monitoring is illegal.

The current process for a business to send and receive SMS text messages involves provisioning a Common Short Code (CSC) which is a five or six digit phone number. Once the CSC is leased each wireless carrier can arbitrarily deny service to and from that number. Choosing to deny connectivity to and from a CSC should be viewed in the same manner that the FCC viewed the recent blocking of phones calls to Iowa phone companies - in other words, it should be illegal:

<http://gigaom.com/2007/05/03/fcc-commish-martin-to-telcos-no-blocking-iowa-calls>

A specific example of this problem can be observed at PayPal who offers an SMS text messaging service called PayPal Mobile. PayPal customers, who subscribe to AT&T (formerly Cingular) are blocked from using PayPal Mobile via SMS. The root of this problem is that AT&T seeks to charge an extra fee for SMS text messages representing financial transactions.

Another example, which has been observed by Acasero Inc., is that T-Mobile has stated they will no longer allow SMS connectivity for companies seeking to provide mobile payments (m-commerce) via SMS.

In both of these examples, the businesses hosting the payments service (i.e. content providers) only seek to send and receive standard rate SMS text messages, not premium rate¹.

Recommendations

It is recommended that:

- Wireless carriers offer content providers a “long code” option for standard rate SMS text messaging in the form of a traditional, domestic, ten digit phone number in the following format: 1-(xxx)xxx-xxxx. This solution is trivial to implement on a technical level and it instantly provides SMS connectivity with all wireless carriers through out the U.S. and Canada once it has been implemented on a single wireless carrier’s network.
- Wireless carriers do not monitor or block standard rate SMS connectivity to and from any CSC.
- Wireless carriers provide third party companies with a non-wireless interface into and out of the wireless carriers network which provides the same level of service that the wireless carriers have (aka Carterphone for wireless carriers).

Conclusion

As a result of SMS crippling, the state of SMS text messaging in the U.S. currently lags greatly behind not only developed countries but also developing countries. Implementing these recommendations would greatly benefit both the consumer and it would definitely encourage innovation through competition. Additionally, these recommendations can be implemented without any rise in text message “spam”. Unlike the Internet, which is wide open and accessible throughout the world, both land based and wireless carriers have the ability to trace illegal activity, from start point to end point, whether in the form of harassing phone calls or unsolicited SMS text messages.

¹ Premium SMS text messaging appears as a line item (additional charge) on the wireless customer’s account statement. Premium SMS services are typically used by wireless subscribers to purchase ring tones, mobile games, photos, etc.